



JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court, Third Judicial Circuit, Seat 2
(New Candidate)

Full Name: Timothy Ward Murphy

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1. Why do you want to serve as a Circuit Court judge?

I believe that here is no higher honor than serving our nation. During my military career, I was called upon to exercise legal judgment in service to our nation, and its system of justice, in a wide variety of situations—often under scrutiny and, at times, extreme pressure. Since entering civilian life, I have continued to serve our nation’s legal system by ensuring fairness for the indigent. I believe my breadth of professional experience and legal acumen qualifies me for the demands of the Circuit Judge position. I can think of no higher honor than to serve the State of South Carolina and the nation as a judge.

2. Do you plan to serve your full term if elected? Yes

3. Do you have any plans to return to private practice one day? No

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

Canon 3 outlines the responsibilities of a judge regarding *ex parte* communication. *Ex Parte* communication by a judge with a party is improper. A judge should always avoid even the appearance of

impropriety in communicating with parties involved in litigation. Ex parte communication is permitted by Canon 3 in certain specific and limited situations involving scheduling, administrative matters and in emergency situations when not dealing with the merits or substantive matters, and in the issuance of temporary restraining orders. I believe that even these permissible situations should be rare and would be discouraged by me (even if I could reasonably conclude that no party would gain an advantage). In those rare cases of permitted ex parte communication, I would notify the other party and solicit a response to the substance of the communication before making any decision.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

The involvement of a Lawyer-legislator does not call for recusal unless there is some circumstance or relationship independent of that status. Consistent with Canon 2B, I would be careful to avoid any appearance of impropriety that could be created by the conduct and interaction between a judge and lawyer-legislators.

In cases involving my firm, I would be required to recuse myself from all cases involving the firm that were being handled by it while I was a member, in accord with Canon 3E(1)(b). After those cases were disposed, I would ensure that I disclosed my former partnership to all parties in any cases and would address any request for recusal on a case-by-case basis. I would recuse myself if my impartiality might reasonably be in question.

Similar to my involvement with the firm, as the Chief County Public Defender, I have reviewed and assigned applications for appointment and made decisions regarding an applicant's qualification for an appointment. Under Canon 3E, recusal in those cases would be appropriate. Obviously, recusal in those cases in which I represented the individual in a case is appropriate.

7. If you disclosed something that had the appearance of bias, but you believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

Because the standard under Canon 3E is an objective standard, I would give a high degree of deference to a party that requested recusal. I believe that the appearance of impartiality is more vital to the integrity

of the judicial system than actual impartiality. If a party reasonably called into question my impartiality, I would grant the motion.

8. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

For the same reason as noted above, I would recuse myself in situations where my spouse or children had a social (such as personal friendship) or financial interest with a particular litigant. While I cannot envision a situation where either my wife or children would be involved in some financial or social situation that brings discredit to the judiciary, if such a situation arose, I would attempt to stop it.

9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

Canon 4(d)(5) provides the standards for acceptance of gifts and hospitality, and I would abide by those standards. Ordinary hospitality from friends and family, including gifts on special occasions, can be accepted as long as the gift is not extreme.

10. How would you handle a situation in which you became aware of misconduct or appearance of infirmity of a lawyer or of a fellow judge?

Canon 3D provides the standards for these types of situations. Instances where I have actual knowledge of misconduct and violation of the Rules would be reported to the appropriate commission as required. In the latter hypothetical, this would include an issue regarding infirmity if such raised a substantial question regarding the "fitness" of the judge or attorney to perform their duties.

The Canon provides that if information is received indicating a substantial likelihood of misconduct, that the judge must take "appropriate action"—which would include direct communication with the judge or attorney seeking clarification and reporting the conduct if necessary.

11. Are you a member of any organization or association that, by policy or practice, prohibits or limits its membership on the basis of race, sex, religion, or national origin? If so, please identify the entity and explain if this organization practices invidious discrimination on any basis.

I am presently a member of the Knights of Columbus, a Catholic men's religious, fraternal and service organization. It does not practice "invidious discrimination" as prohibited in Canon 2C. See, e.g., In Re Code of Judicial Conduct, 643 So. 2d. 1037 (Fla. S Ct. 1994); Indiana

Advisory Opinion 1-94; Nebraska Ethics Advisory Opinion 91-2.

Should I be elected to the judiciary, my intent is to resign from all service and other community organizations of which I am currently a member. Though Canon 4C(3)(a-b) permit membership in such organizations in limited capacities, the evolving nature of these organizations, the potential that these organizations may engage in issue advocacy at the state or national level, the possibility that they may become involved in litigation (as Rotary has been), as well as—from the practical level—that a reasonable possibility exists that members of these organizations may become involved either in litigation or with the judicial process, leads me to conclude that the best way to “minimize the risk” of actual or perceived conflict or perceptions of impropriety is to simply resign from the organizations.

12. Have you engaged in any fund-raising activities with any political, social, community, or religious organizations? Please describe.

I have solicited support for and participated in numerous fund raising activities for the Rotary Clubs of which I am a member, most recently the Sumter Sunrise Rotary 5K race in Sumter.

I have actively solicited donations and promoted fund-raising activities for the benefit of the schools at which my wife has served as a teacher and administrator—Saint Anne Catholic School and Thomas Sumter Academy, both in Sumter.

I have solicited support and contributions for an annual golf tournament co-sponsored by the Sumter chapter of the Military Officers Association of America (MOAA) that supports various activities in the Sumter region, including JROTC scholarships and grants to the Wounded Warriors foundation.

I co-sponsored a fund-raiser at a private home for my law partner, Wade S. Kolb, when he ran in the primary for State Senate in 2012.

13. Do you have any business activities that you would envision remaining involved with if elected to the bench? No.

14. If elected, how would you handle the drafting of orders?

In all but the most routine matters, I would draft the order myself after soliciting input from both parties. In situations involving continuances and other routine administrative issues, the requesting party would draft

the order and submit it to me after coordination with the other party.

15. If elected, what methods would you use to ensure that you and your staff meet deadlines?

I have experience with computer systems that include various reminders and "ticklers". As with any system, they are only as valuable as the input, so it would be important for the staff to be trained to input the correct data. I also would keep a personal written/l-pad calendar. I would reconcile these on a routine (weekly) basis.

16. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

I believe that a judge's role is to interpret the law that has been enacted through the political process using an analysis grounded in case law regarding precedent and statutory interpretation. I do not believe it is the role of a judge to "create public policy" or independently "make law", which is my understanding of the term "judicial activism".

17. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

I would write articles for both legal periodicals and the general public regarding issues involving the improvement of our legal system, as well as speaking at local panels or community or legal groups on this topic. On a practical level, I believe it is always important to solicit ideas from attorneys, clerks of court and other "stake holders" in the judicial process regarding ways to improve process efficiency and, if possible, try to facilitate the implementation of those improvements.

18. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

No.

I do not anticipate any "strain", especially in regard to my family. My family has endured the strain of long absences during my military career, and I do not anticipate that any pressures on the bench compare to those stressors.

Any "strain" that might develop with social friends (such as if they were involved in litigation) might require me to limit contact with them in order to avoid the appearance of impropriety, but I would discuss the

necessity with them honestly and forthrightly.

19. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders:

Recidivism is a problem. An individual's criminal record, or lack of one, is especially relevant in sentencing when assessing the need to protect society from the prospect of continued criminal activity by the offender as well as the offender's potential for rehabilitation. While each individual defendant and case is different, I would generally give these two sentencing factors a higher degree of consideration when crafting a sentence for a repeat offender.

b. Juveniles (that have been waived to the Circuit Court):

A juvenile is entitled to the same consideration during sentencing as any other individual. Obviously, a juvenile convicted of a crime in General Sessions Court has likely been involved in a serious matter. I would consider the defendant's age and maturity as one of many factors when crafting an appropriate sentence.

c. White collar criminals:

Generally, I believe that those who commit the same or similar crimes should be treated consistently when sentenced without sole regard to socio-economic status. Such status, in and of itself, is neither a mitigating nor aggravating factor, though it might bear on rehabilitation potential.

d. Defendants with a socially and/or economically disadvantaged background:

My answer is the same as c. above.

e. Elderly defendants or those with some infirmity:

As with juveniles and those with mental health challenges, the age and condition of the defendant is one factor I would consider in fashioning a sentence.

20. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality? No.

21. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

While it may be permitted under Canon 3E, I believe the perception of impartiality is as vital to the integrity of the judicial system as actual impartiality. Therefore, while depending on the nature of the interest I would be inclined to recuse myself if I became aware of it.

22. Do you belong to any organizations that discriminate based on race, religion, or gender? No.
See my answer to question 11.

23. Have you met the mandatory minimum hours requirement for continuing legal education courses for the past reporting period? Yes.

24. What do you feel is the appropriate demeanor for a judge and when so these rules apply?

In accord with Canon 3, I believe a judge should be professional. This means treating all who appear before the bench with respect, courtesy and attentiveness. In short, the judge should be the example of civility that is expected among all members of the bar.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

While a judge might actually feel anger, showing anger in public is not consistent with being a professional, and the tenets of Canon 3 regarding patience, dignity and courtesy. One can be direct in addressing individuals and issues without resorting to public displays of anger.

I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

S/Timothy Ward Murphy

Sworn to before me this ____ day of _____, 2017.

(Signature)

(Print Name)
Notary Public for South Carolina
My Commission Expires: _____